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FILED
CHARLOTTE, NC

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

APR 10 2019

US DISTRICT COURT
WESTERN DISTRICT OF NC

BRIAN GREEN)
Plaintiff)
vs)
WELLS FARGO BANK, N.A.)
BROCK & SCOTT, PLLC)
Defendants)
)
Civil No: 3:19CV75
)
TRIAL BY JURY DEMANDED
)

FIRST AMENDED COMPLAINT

1. This is an action for damages brought by an individual Plaintiff for Defendant's violation of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, et.seq. (hereafter "FDCPA"), the North Carolina General Statutes N.C. Gen. Stat. § 75-1.1(a)(b) (hereafter "NCLEG"), which prohibits debt collectors from engaging in abusive, deceptive and unfair practices.
2. Plaintiff seeks to recover monetary damages for Defendant's violations of the FDCPA.

JURISDICTION

3. This court has jurisdiction under 15 U.S.C. § 1692k(d), 28 U.S.C. § 1331.

PARTIES

4. The Plaintiff in this lawsuit is Brian Green ("Plaintiff"), a natural person, who is a legal resident in Union County, North Carolina.
5. Plaintiff is a consumer as defined by the FDCPA, 15 U.S.C. § 1692a(3).
6. Defendant, WELLS FARGO BANK, N.A. ("WELLS") is a foreign corporation who is authorized to do business in the State of North Carolina.

7. Defendant, BROCK & SCOTT, PLLC (“BROCK”) attorney for the WELLS, a law firm, is a “debt collector” as defined by 15 U.S.C. § 1692a(6), and maintains office at 1315 Westbrook Plaza Dr., Suite 100, Winston-Salem, NC 27103.

VENUE

8. The occurrence which give rise to this action occurred in Union County, North Carolina and Plaintiff is a legal resident in Union County.
9. Venue is proper in the Western District of North Carolina.

FACTUAL ALLEGATIONS

10. Plaintiff received a collection notice from BROCK dated on or about October 9, 2018 stating that a charge card account # XXXXXXXXXXXX3120, has been assigned to them from WELLS, and they were attempting to collect an alleged balance due on said account \$7,053.68.
11. Plaintiff sent a timely response within 30 days to BROCK on October 11, 2018, disputing the allege debt and demanding BROCK cease and desist from any further collection activities until they validate the alleged debt.
12. The validation of debt and dispute of information demands were received by BROCK on October 15, 2018, according to USPS records.
13. Plaintiff sent a 2nd request to BROCK on October 23, 2018, disputing the allege debt and demanding BROCK cease and desist from any further collection activities until they validate the alleged debt.
14. The 2nd validation of debt and dispute of information demands were received by BROCK on October 25, 2018, according to USPS records.
15. The Plaintiff received a mailing packaged from a third party consumer dated October 26, 2018 from BROCK. Communicating with a third party is a violation of the 15 U.S.C. § 1692c(b), and was a deceptive practice in violation of N.C. Gen. Stat. § 75-1.1(a)(b), and 15 U.S.C. § 1692(a)(e).
16. On November 5, 2018, Plaintiff disputed information contained in mailed package sent by BROCK, indicating BROCK communicated information was incomplete and inconclusive regarding the validity of the allege debt..
17. The disputed information demands were received by BROCK on November 7, 2018, according to USPS records. Defendant failed to respond to plaintiff with any new information. Receipt of collection notice when no validation of the alleged debt had ever been received by the Plaintiff was a violation of 15 U.S.C. § 1692c(b), the FDCPA, and was a deceptive practice.

18. All violations complained of herein occurred within the statute of limitations of the applicable statutes, both state and federal.

COUNT I

VIOLATIONS OF THE FDCPA

19. Plaintiff repeats and re-alleges each and every allegation stated above.

20. Defendant's aforementioned conduct violated the FCDPA.

WHEREFORE, Plaintiff prays for relief and judgment, as follows:

- a) Adjudging that Defendants violated the FDCPA.
- b) Awarding Plaintiff statutory damages, pursuant to 15 U.S.C. § 1692k, in the amount of \$1,000;
- c) Awarding Plaintiff any attorney's fees and costs incurred in this action.
- d) Awarding Plaintiff any pre-judgment and post-judgment interest as may be allowed under the law;
- e) Awarding such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY BY TRIAL

Plaintiff hereby demands a trial by jury of all issues so triable as a matter of law.

Dated: April 8, 2019

Respectfully submitted,



Brian Green
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